

EXHIBIT 1

Page 1

CAUSE NO. 2020-84057

CELIA GONZALEZ) IN THE DISTRICT COURT OF
Plaintiff,)
)
VS.) HARRIS COUNTY, TEXAS
)
ALLSTATE FIRE AND CASUALTY)
INSURANCE COMPANY)
Defendant.) 157TH JUDICIAL DISTRICT

VOLUME 1 OF 1
ORAL AND VIDEOTAPED DEPOSITION OF
AKASH BHAGAT, M.D.
MAY 11, 2022

ORAL AND VIDEOTAPED DEPOSITION OF AKASH BHAGAT, M.D., produced at the instance of Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 11th day of May, 2022, from 10:05 o'clock a.m. to 1:08 o'clock p.m., before Monica Victor, a certified shorthand reporter, in and for the State of Texas, reported by computerized stenotype machine, at Law Offices of Marcos & Associates, P.C., 10700 North Freeway, 8th Floor, Houston, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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2	Appearances		3	1 APP E A R A N C E S
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15	1 Affidavit Medical Records		7	14 Telephone: 713.228.5100
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18	EXHIBIT 4 Color Xerox Photograph		16	17 Mr. Bret W. Weatherford
19	EXHIBIT 5 Memorial Heights Emergency Center Statement		22	18 LAW OFFICES OF KASSABIAN, DOYLE & WEATHERFORD, P.C.
20	EXHIBIT 6 Google Maps	37		19 524 E. Lamar Boulevard, Suite 280
21	EXHIBIT 7 Google Maps	38		20 Arlington, Texas 76011
22	EXHIBIT 8 Cypress Smart Choice Chiropractic Chart Notes		72	21 Telephone: 817.461.8855
23	EXHIBIT 9 Memorial Heights Emergency Center Chargemaster		88	22 Facsimile: 817.274.9863
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				25 ALSO PRESENT:
				18 Mr. Isaac Bahena

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1	THE VIDEOGRAPHER:	Good morning. Today is	1 Q. And what area of medicine do you practice?	
2	Wednesday, May the 11th, 2022. We are on the record,		2 A. Emergency medicine.	
3	and the time is 10:05.		3 Q. Have you practiced emergency medicine since you	
4	(Witness sworn.)		4 graduated from medical school?	
5	MR. WEATHERFORD:	Do we need announcements?	5 A. I have.	
6	THE REPORTER:	No.	6 Q. Any other medical -- or areas of practice?	
7	AKASH BHAGAT, D.O.,		7 A. No.	
8	having been first duly sworn, testified as follows:		8 Q. I actually found your -- your LinkedIn page,	
9	EXAMINATION		9 Doctor, but you're also -- you actually are also, as you	
10	BY MR. WEATHERFORD:		10 stated, an entrepreneur in hospitality and diversified	
11	Q. Good morning, Dr. Bhagat.		11 healthcare management industry.	
12	A. Good morning.		12 A. Yeah. I should update this.	
13	Q. Could you state your full name?		13 Q. Is that sort of still correct or --	
14	A. Akash Bhagat.		14 A. It's sort of still correct, yeah.	
15	Q. Okay. And what is your profession?		15 Q. Okay. So in addition to actually being a	
16	A. I'm an emergency physician.		16 medical doctor, you also have some ventures in -- in,	
17	Q. How long have you been a medical doctor?		17 like, business clubs, that type of thing?	
18	Let -- let me rephrase that actually. When were you		18 A. No longer. That closed down, but I am an	
19	first licensed as a medical doctor?		19 entrepreneur.	
20	A. Probably 2005, 2004 maybe.		20 Q. Have you ever been deposed in a lawsuit before?	
21	Q. Okay. In Texas?		21 A. I have.	
22	A. Yes.		22 Q. On how many occasions?	
23	Q. Have you ever been licensed in any state other		23 A. I believe just twice.	
24	than Texas?		24 Q. So this would be about the third?	
25	A. No.		25 A. Probably third or fourth, yeah.	

2 (Pages 2 to 5)

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1 working for either of the Memorial Heights MVA
 2 Professional or Memorial Heights MVA Facility?

3 A. No.

4 Q. In the -- in the records that are before you,
 5 the Memorial Heights records, is there any type of
 6 questionnaire or form an incoming patient or family
 7 member would complete that you did not see in those
 8 records?

9 A. An incoming form. Can you --

10 Q. Right. I mean --

11 A. -- tell me what you mean by that?

12 Q. Well, let me sort of break it down.

13 A. Uh-huh.

14 Q. A patient comes to Memorial Heights.

15 A. Yes, sir.

16 Q. What type of paperwork would they be given when
 17 they come to Memorial Heights?

18 A. Just some initial intake paperwork.

19 Q. Okay. Did you see those -- that paperwork in
 20 this file?

21 A. This is the -- the medical record.

22 Q. Right.

23 A. So their initial intake with demographics,
 24 whatever is on that intake paperwork is not -- is not in
 25 here.

1 Q. Okay. So there's a separate record that would
 2 contain other records concerning Ms. Gonzalez?

3 A. If that's -- that's all input into our computer
 4 system, and that's not part of the -- the medical
 5 record. It's --

6 Q. Okay. Would these records be things like, you
 7 know, where the -- for a patient or a family member of
 8 the patient would write in what areas of the body there
 9 was a complaint?

10 A. No.

11 Q. Level of pain?

12 A. No.

13 Q. Would it be strictly demographic information?

14 A. Yes, sir.

15 Q. Addresses, telephone numbers, that type of
 16 thing?

17 A. Correct.

18 Q. Looking at the Memorial Heights records, do
 19 they reflect when the accident occurred? And I think if
 20 you reference page 13 or 16, 13 would be your own
 21 physician's report.

22 A. Right.

23 Q. And in your report, did you reflect when the
 24 accident occurred?

25 A. I wrote the injury occurred September 6th.

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1 Q. Okay. And the date that she actually came in
 2 was September the 11th?

3 A. Yes.

4 Q. So this was five days after the accident that
 5 she came to the freestanding emergency room?

6 A. Correct.

7 Q. Do you know if she sought treatment anywhere in
 8 that five-day period before coming to Memorial Heights?

9 A. I did not note that she did.

10 Q. Is that something you normally would note?

11 A. If she told me or if she brought some sort of
 12 documentation from another facility, then I would
 13 include that, yes.

14 Q. I mean, is that unusual that a person would
 15 wait five days to go to an ER after an accident?

16 A. No, it's not.

17 Q. Is this a situation where you think maybe she
 18 just lived nearby and finally decided to come to your
 19 facility?

20 A. I don't --

21 MR. MORIARTY: Objection --

22 A. I don't --

23 MR. MORIARTY: -- form.

24 A. I don't know.

25 Q. (BY MR. WEATHERFORD) Do the records that you

1 have reflect how Ms. Gonzalez happened to come to
 2 Memorial Heights?

3 A. No, I don't.

4 Q. Do they reflect where Ms. Gonzalez resides?

5 A. Resides?

6 Q. Right. I believe the billing record.

7 A. No, I don't know where she lives.

8 Q. What does the -- the Memorial Heights billing
 9 record state her address was?

10 A. 7355 Stone Pine Lane.

11 Q. Are you familiar with where that is?

12 A. No, sir, I'm not.

13 Q. Memorial Heights itself, it's located fairly
 14 close to Downtown?

15 A. It's a few miles outside, yes, sir.

16 Q. Maybe a couple of miles to the west of
 17 Downtown?

18 A. Yes.

19 MR. WEATHERFORD: Can we go ahead and mark
 20 this?

21 THE WITNESS: As what?

22 MR. WEATHERWORD: Oh, mark it as Exhibit 6.
 23 Thank you.

24 (Exhibit 6 marked.)

25 Q. (BY MR. WEATHERFORD) And this is just

10 (Pages 34 to 37)

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1 something I pulled off of Google maps. And can you see
 2 that represents where that -- where the patient's
 3 address is?

4 A. Yes, sir.

5 Q. Okay. And, I mean, she's fairly well to the
 6 west of Loop 8. Would you agree?

7 MR. MORIARTY: Objection, form.

8 A. I agree she's to the west of Loop 8, yes.

9 Q. (BY MR. WEATHERFORD) Okay. I mean, she's not
 10 very close to Memorial Heights, is she?

11 MR. MORIARTY: Objection, form.

12 A. Close is relative, sir. I'm not sure how to
 13 define that.

14 MR. WEATHERFORD: Okay. Can you mark this
 15 as Exhibit 7? Thanks.

16 (Exhibit 7 marked.)

17 Q. (BY MR. WEATHERFORD) And I'm handing you
 18 what's marked as Exhibit 7, and that's just another
 19 Google location from Memorial Heights.

20 A. Yes, sir.

21 Q. Is -- does that correctly depict where Memorial
 22 Heights Emergency Center is?

23 A. It looks fairly close, yes.

24 Q. I mean, compared to where Memorial Heights is
 25 and where she lives is, that's a fair distance, isn't

1 it?

2 MR. MORIARTY: Objection, form.

3 A. However you define fair, yes, sir.

4 Q. (BY MR. WEATHERFORD) Well, per Mapquest, she
 5 live 18.4 four miles away from Memorial Heights Medical
 6 Center. Would you consider that a -- a substantial
 7 distance?

8 MR. MORIARTY: Objection, form.

9 A. Please be a little bit more detailed --

10 Q. (BY MR. WEATHERFORD) Okay. Sure.

11 A. -- than substantial distance.

12 Q. If -- if she lived 18.4 miles away from
 13 Memorial Heights --

14 A. Yes, sir.

15 Q. -- Emergency Center, would you find that
 16 unusual that a plaintiff would travel that far to get to
 17 your freestanding ER?

18 MR. MORIARTY: Objection, form.

19 A. We've had patients come from further.

20 Q. (BY MR. WEATHERFORD) Okay. The photos that we
 21 looked at earlier of Memorial Heights, is -- is Memorial
 22 Heights Emergency Center visible from any freeway?

23 A. The facility is not.

24 Q. Okay. You pretty much have to be driving on
 25 Washington Avenue to see the facility?

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1 A. To the see the facility, yes.

2 MR. MORIARTY: Objection, form.

3 Hey, guys, can we take a quick break?

4 MR. WEATHERFORD: Sure.

5 MR. MORIARTY: My pen just ran out.

6 THE VIDEOGRAPHER: Off the record at 10:50.

7 (Recess 10:50 a.m. to 10:59 a.m.)

8 THE VIDEOGRAPHER: And we are back on the
 9 record, and the time is 10:59.

10 Q. (BY MR. WEATHERFORD) Sure. Dr. Bhagat, could
 11 you look at the -- the medical record in this case? If
 12 you would, turn to page 16. And do you recognize what
 13 this document to be?

14 A. I do.

15 Q. And what is that?

16 A. It's the nursing record.

17 Q. Okay. And it appears to me the nurse really
 18 keeps track of everything that happens with the patient
 19 treatment. Is that correct?

20 A. Right.

21 Q. Okay. The triage says, "Arrived by private
 22 vehicle." Is that true?

23 A. That's what it says, yes.

24 Q. Okay. I mean, do patients ever arrive by
 25 ambulance to Memorial Heights?

1 A. No, we don't take inbound ambulance.

2 Q. And looking at the dates, it appears that --
 3 that several things -- or the times -- pardon me.
 4 Looking at the times, it appears that several things
 5 happened at 7:40, 19:40. Do you -- do you agree with
 6 that? Right. I mean, like the -- the time of --
 7 underneath "Chief Complaint," what's the time that's
 8 written?

9 A. 7:40.

10 Q. Okay. Would 7:40 have been the time that the
 11 nurse was taking this information?

12 A. That's when the nurse documented the
 13 information.

14 Q. Okay. And at the same time, the Glasgow Coma
 15 Score was also at 7:40?

16 A. It says 20:35, sir.

17 Q. Oh, okay. So that was done quite later?

18 A. It was either done or documented later, yes,
 19 sir.

20 Q. And let me ask you a -- a question on that
 21 because I wasn't sure of this myself. Look at where the
 22 blood pressure and the heart rate was taken. Do you see
 23 that?

24 A. I do.

25 Q. Okay. And there is a timestamp for 19:40,

11 (Pages 38 to 41)

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1 MR. MORIARTY: Objection, form.
 2 Q. (BY MR. WEATHERFORD) So did you start doing
 3 internal billings under the MVA entities, you know,
 4 right when you formed them?
 5 A. No. I imagine it was a little bit later.
 6 Q. Okay. But by this point, a little more than a
 7 month later, they were already billing?
 8 A. Correct.
 9 Q. Now, the -- the first charge under the
 10 Facility -- I'm looking at the MVA Facility
 11 Administration, LLC bill. 99285, that's a -- a CPT
 12 code.
 13 A. Right.
 14 Q. Do you have an understanding of CPT codes?
 15 A. A high level, yes.
 16 Q. Okay. Are -- they're standardized throughout
 17 the United States. Is that correct?
 18 A. Right.
 19 Q. Actually, CMS, the Medi- -- Medicare Center
 20 requires it for a lot of billings. Is that correct?
 21 A. I'm not sure of that case law, but it's -- it
 22 sounds reasonable.
 23 Q. But they're -- they're very commonly used by
 24 most healthcare providers today?
 25 A. Yes.

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1 Q. And this allows one medical provider to see
 2 what was coded and to know what -- pretty much exactly
 3 what was done --
 4 A. Correct.
 5 Q. -- by a prior provider?
 6 A. Correct.
 7 Q. Okay. 99285, is a 5 level the highest level of
 8 service?
 9 A. No. I believe there's a critical care modifier
 10 as well that can be --
 11 Q. Okay.
 12 A. -- added.
 13 Q. And 99285 is basically the -- the basic
 14 emergency room service?
 15 A. The -- a complex patient, yes.
 16 Q. Yeah, but it's -- but it's the -- the general
 17 billing that the patient has come in the door and had to
 18 be evaluated?
 19 A. I suppose so.
 20 Q. Okay. And the charge is \$10,500 for that one
 21 service?
 22 A. Correct.
 23 Q. Okay. And that's what Memorial Heights is
 24 still seeking today?
 25 A. Correct.

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1 Q. Does Memorial Heights, on its Web site, have a
 2 Chargemaster posted?
 3 A. It -- it does.
 4 Q. Okay. And I believe it's -- it's about 262
 5 pages long if you try to print it.
 6 A. Probably so, sir.
 7 Q. It -- it's lengthy, isn't it?
 8 A. There's a lot of CT codes, yes.
 9 Q. It -- it -- and I think it has probably about
 10 every conceivable CT -- CPT code that could be billed.
 11 Correct?
 12 A. It sounds like at 262 pages, it should be
 13 pretty comprehensive.
 14 Q. I'm not -- I'm not going to give you the whole
 15 thing, but I would like to mark this as Exhibit 9.
 16 MR. WEATHERFORD: Here you go.
 17 (Exhibit 9 marked.)
 18 Q. (BY MR. WEATHERFORD) And does this -- this
 19 face page, does that look how -- how it would appear on
 20 the -- the wording appears on the -- the Web site?
 21 A. This looks like our -- like it would be, yes.
 22 Q. Okay. When did you start posting this
 23 Chargemaster on the Web site?
 24 A. I don't recall exactly. It was a few years
 25 ago.

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1 Q. Okay.
 2 A. It was prior to the pandemic, so probably 2019
 3 or 2018.
 4 Q. Okay. And -- and was there a Chargemaster, you
 5 think, on in 2018 when --
 6 A. I wouldn't -- I wouldn't know exactly when --
 7 Q. Okay.
 8 A. -- we uploaded it.
 9 Q. Is this the only -- does Memorial Heights only
 10 have one Chargemaster?
 11 A. Currently, yes.
 12 Q. Regardless of patients?
 13 A. Yes.
 14 Q. Okay. And you said, currently, yes. Was there
 15 a time before that there was different charge masters
 16 for different types of patients?
 17 A. For -- for self-pay patients, I know that we
 18 have a different fee schedule. Like for upfront pay,
 19 we -- we provide discounts.
 20 Q. Okay. But the -- the base charge would
 21 still be the same. It would just be discounted for
 22 prompt pay?
 23 A. Correct.
 24 Q. Okay. So if you looked at Chargemaster, there
 25 would be the same price?

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1 A. When was this Chargemaster done?
 2 Q. I printed it --
 3 A. It doesn't say.
 4 Q. I'll represent to you, I printed it off within
 5 last couple of days.
 6 A. Okay.
 7 Q. It's the current one.
 8 A. Okay.
 9 Q. Was there ever a time when there was a separate
 10 Chargemaster for the -- the letter of protection
 11 patients treating under the MVA Facility entity?
 12 A. I -- I -- I don't recall if there was a
 13 different Chargemaster --
 14 Q. Okay.
 15 A. -- completely.
 16 Q. There could -- there could have been?
 17 A. We try to stick to one Chargemaster, but
 18 billing is fluid. It changes. So I -- I can't tell you
 19 exactly during that time period what was -- what the
 20 charges were.
 21 Q. Okay. Will you look at that \$10,500 charge?
 22 If you look at the -- the current Chargemaster -- and
 23 I'll find the page. The next-to-last page at the
 24 bottom, do you see the -- the charge on the current
 25 Chargemaster for the 99285 --

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1 Q. Would that have been the date that this bill
 2 was generated?
 3 A. That's the date on the bill, yes, sir.
 4 Q. Okay. On September the 20 -- in September of
 5 2018, if I had been a non-accident patient coming in for
 6 abdominal pain and I had been provided a 99285
 7 service --
 8 A. Yes, sir.
 9 Q. -- would I have been billed \$10,500 or would I
 10 have been billed a lower amount?
 11 A. I would have to look at bills from that time
 12 for an abdominal pain patient, to be honest with you.
 13 Q. Okay. There wasn't a separate charge list for
 14 non-accident patients at the time?
 15 A. I would have to refer back to, you know, our
 16 documentation from back then. I just don't know.
 17 Q. Is that documentation maintained?
 18 A. What -- when the charge -- Chargemaster was
 19 changed?
 20 Q. Right.
 21 A. There may be a way that we can find that
 22 information out by scouring through old bills.
 23 Q. Okay. But it wouldn't have been a separate
 24 Chargemaster?
 25 A. I -- I believe we have one Chargemaster. I

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1 A. I do.
 2 Q. -- service? What is the current charge for a
 3 99285 service by Memorial Heights?
 4 A. 3,500.
 5 Q. Okay. And in September of 2018, the bill for
 6 Ms. Gonzalez was 10,500.
 7 A. Correct.
 8 Q. That's -- so the -- the charge in 2018 was
 9 exactly three times what the charge today would be?
 10 A. Correct.
 11 Q. When did that charge change?
 12 A. I don't know exact date.
 13 Q. Okay. Do you think that \$10,500 is a
 14 reasonable charge in view of the fact that you would
 15 charge only a third of that today for a patient?
 16 A. During that time, it was reasonable.
 17 Q. But today it wouldn't be reasonable?
 18 A. Today we have different prices.
 19 Q. Okay. You dropped by a third. Do you know --
 20 do you know when the price dropped by a third?
 21 A. I don't know exactly, sir.
 22 Q. At the time this bill was generated in -- for
 23 the services -- actually it has a date at the top,
 24 September 25, 2018?
 25 A. Yes, sir.

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1 would have to -- I don't do the billing. So I am not a
 2 hundred percent sure.
 3 Q. Okay. Would Ms. England know?
 4 A. She -- she may.
 5 Q. I mean, who is Ms. -- Ms. -- and her name's
 6 Leia?
 7 THE WITNESS: Do you mind if I run to the
 8 restroom right quick? I've been drinking too much
 9 coffee.
 10 MR. WEATHERFORD: Sure. Sure.
 11 THE WITNESS: Thank you.
 12 THE VIDEOGRAPHER: Off the record and the
 13 time is 12:07.
 14 (Recess 12:07 p.m. to 12:16 p.m.)
 15 THE VIDEOGRAPHER: We are back on the
 16 record and the time is 12:16.
 17 Q. (BY MR. WEATHERFORD) Now, Doctor, the second
 18 charge that I want to look at is a cervical CT without
 19 contrast and that was billed as CPT code -- CPT code
 20 72125?
 21 A. Yes, sir.
 22 Q. And that was billed at \$9,656.85?
 23 A. Correct.
 24 Q. Do you know what that -- the current charge
 25 would be at Memorial Heights for that?

<p style="text-align: right;">Page 94</p> <p>1 A. No, I don't. 2 Q. If -- if you look at the third page of that 3 exhibit, do you see the current charge for CPT code 4 72125, CT cervical spine without contrast? 5 A. I do. 6 Q. And that -- that's the same service that was 7 billed Ms. Gonzalez. Correct? 8 A. Yes. 9 Q. And what's the current charge on that? 10 A. \$5,568.78. 11 Q. Okay. So that's more than \$4,000 less than 12 what the MVA Facility bill is for Ms. Gonzalez? 13 A. From 2018, correct. 14 Q. You know, the price has dropped close to half? 15 A. If that's the amount, yes, sir. 16 Q. If a -- if a motor vehicle accident patient 17 came in today -- 18 A. Yes, sir. 19 Q. -- and treated at Memorial Heights and you did 20 a cervical T -- CT without contrast -- 21 A. Yes, sir. 22 Q. -- they'd be charged the \$5,568 amount? 23 A. Yes. 24 Q. And not the \$9,656 amount? 25 A. Correct.</p>	<p style="text-align: right;">Page 95</p> <p>1 Q. The lumbar CT for Ms. Gonzalez under CPT code 2 72131, lumbar CV -- CT of the lumbar spine without 3 contrast, \$11,494.80. Do you see that? 4 A. I do. 5 Q. Okay. Per the current Chargemaster, what would 6 the charge for 72131 be? 7 A. \$6,820.25. 8 Q. That's only about 59 percent of the charge 9 that's charged for Ms. Gonzalez? 10 A. Sounds right. 11 Q. Well, if Ms. Gonzalez had come in today instead 12 of in 2018, the current charge would be \$4,674 less. 13 Correct? 14 A. Yes. 15 Q. But is it your testimony if there was a 16 Chargemaster back in September of 2018 the higher charge 17 would have been the only charge on that Chargemaster? 18 A. I would have to refer to the Chargemaster from 19 2018. 21 Q. Is that something you think you could try to 22 find? 23 A. I can try. I believe it's electronic. So we 24 just -- we -- we change it. It's not like -- we don't 25 print out 260 pages to keep in our file. Q. So you think once a -- a new charge for a</p>
<p style="text-align: right;">Page 96</p> <p>1 Chargemaster is determined, basically the old 2 Chargemaster is erased since you have new information? 3 A. Correct. 4 Q. Would there be any source other than billings 5 from that time period? 6 A. Not that I can think of currently, sir. 7 Q. The upper extremity CT without dye, that would 8 be the -- the wrist CT. Correct? 9 A. Yes, sir. 10 Q. Okay. And Memorial Heights is charge -- the 11 MVA Facility Administration entity is charging 12 \$5,753.70? 13 A. That's correct. 14 Q. Okay. I'm trying to find this. Where -- if 15 you look at the next page that -- from the page we were 16 looking at for the other CTs on the current 17 Chargemaster -- 18 A. Okay. 19 Q. -- do you see the -- the 73 -- the CPT 73200 -- 20 A. I do. 21 Q. -- service? And that's CT upper extremity 22 without material. But that's the service that was 23 provided to Ms. Gonzalez? 24 A. It sounds like it, yes. 25 Q. Okay. What's the current charge?</p>	<p style="text-align: right;">Page 97</p> <p>1 A. \$1,917.90. 2 Q. That's one-third exactly of the \$5,753.70 3 charge that was billed to Ms. Gonzalez. Is that 4 correct? 5 A. If you did the math, then I'll agree with you. 6 Q. About a third if -- if you don't do the math. 7 A. Okay. 8 Q. Well, it's basically 3800 compared to 5700. 9 Correct? 10 A. Would you like me to do the math? 11 Q. No. No. 12 A. Okay. 13 Q. And, again, if a patient -- if an automobile 14 accident patient came in today treating under a letter 15 of protection -- 16 A. Uh-huh. 17 Q. -- and received a upper extremity CT like this, 18 would the charge be \$3,835.80? 19 A. Today would be -- 20 Q. Oh, wait a minute. Pardon me. Would be 21 one-thousand nine -- let me rephrase the whole question 22 then. If an -- if an automobile accident patient 23 treating under an LOP came in today and had the -- the 24 CT of the wrist, they would be billed \$1,917.90? 25 A. That's correct.</p>

<p style="text-align: right;">Page 98</p> <p>1 Q. They would not be billed the \$5,753.70 that 2 you're billing Celia Gonzalez? 3 A. Correct. 4 Q. Since we're on the page with the wrist, if you 5 look at the -- what would be the charge under the 6 current Chargemaster in 2022 for the CPT 73110, wrist 7 x-ray, minimum three views? 8 A. Which page is that on? 9 Q. The same page as the -- the one we were on with 10 the CT. 11 A. \$945.53. 12 Q. Okay. And on the MVA Facility Administration 13 bill for Ms. Gonzalez, that is \$1,443.06? 14 A. Yes, sir. 15 Q. And, again, that's exactly one-third of the 16 charge for Ms. Gonzalez. 17 A. No. 18 Q. Oh, wait a minute. Pardon me. Let me withdraw 19 that question then. 20 So instead of \$945, Ms. Gonzalez was billed 21 \$1,443? 22 A. And six cents. 23 Q. And six cents. 24 A. Yes, sir. 25 Q. I mean, would it surprise you if the other</p>	<p style="text-align: right;">Page 99</p> <p>1 charges were similar in this case? 2 MR. MORIARTY: Objection, form. 3 A. I'm not surprised by anything, sir. 4 Q. (BY MR. WEATHERFORD) Okay. The short arm 5 splint, the actual service -- I mean, there's -- the 6 actual cost for the splint itself was over a thousand 7 dollars. Correct? 8 A. Yeah, for the custom fabricated -- 9 Q. Okay. 10 A. -- short arm fiberglass splint. 11 Q. And the -- oh. Pardon me. I -- I interfered 12 with your answer. But that was over a thousand dollars? 13 A. Yes, sir. \$1,056.15. 14 Q. But in addition to that, there was also a -- 15 there's actually a charge for padding for the 16 compression bandage. Is that part of the splint? 17 A. Yes. 18 Q. That's an additional \$67? 19 A. Yes, sir. 20 Q. The Ace wrap, that's an additional 45.93? 21 A. Yes, sir. 22 Q. Okay. The current Chargemaster, if you look 23 at -- I think it's the last page. And this is actually 24 a supply code, 86449? 25 A. Yes, sir.</p>
<p style="text-align: right;">Page 100</p> <p>1 Q. What would be the -- the cost for the Ace wrap 2 today? 3 A. \$15.31. 4 Q. Okay. And that is exactly one-third of the 5 \$45.93 that's being charged to Ms. Gonzalez? 6 A. It's exactly one-third, yes, sir. 7 Q. Exactly one-third. A lot of these have -- have 8 gone down to a third of what they were at the time you 9 charged Ms. Gonzalez. Isn't that correct? 10 MR. MORIARTY: Objection, form. 11 A. It doesn't -- it doesn't seem like a lot of 12 them. Some of them are. 13 Q. (BY MR. WEATHERFORD) Well, the -- the splint 14 that I was looking at, that -- 15 A. Uh-huh. 16 Q. -- was billed at CPT code -- or the short arm 17 splint service -- and this is \$688. So this was for the 18 application by the tech of the splint? 19 A. Yes. 20 Q. Okay. And that was billed under Code 29125. 21 If you -- if you look at the bottom of the -- the very 22 bottom of the first page of charges in this exhibit -- 23 A. Yes, sir. 24 Q. -- is that that same service, 29125? 25 A. Yes, it is.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. What was the charge currently for that? 2 A. \$229.60. 3 Q. Okay. And that's about -- that's exactly a 4 third of the -- the charge for Ms. Gonzalez, isn't it? 5 A. Would you like me to do the math? 6 Q. Well, it's a difference between \$688.80 and 7 \$229.60. 8 A. It's a third. 9 Q. Okay. For Ms. Gonzalez's charges -- 10 A. Yes, sir. 11 Q. -- current charges, who actually determined the 12 charge amounts that were used in the Chargemaster as of 13 that time? 14 A. They were based on a variety of local 15 healthcare providers that provide the same service. 16 Q. So you're saying you -- you look at other 17 healthcare providers to see what they charge? 18 A. Yes. 19 Q. And, like, for the basic 99285, other 20 freestanding emergency rooms were charging \$10,500? 21 A. I would have to look, but they're based on -- 22 they are based on what other facilities providing the 23 same service are charging. 24 Q. Do you recall what other facilities you looked 25 at?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. -- we looked at bills without patient names on 2 them and we saw charges and made decisions based on 3 those. 4 Q. Okay. So you -- you looked at bills from other 5 facilities that patients had? 6 A. Correct. 7 Q. Okay. Where do you obtain these bills from? 8 A. From -- some patients sent them to me, some 9 were from family members of our staff, various sources. 10 Q. How often do you update charges? 11 A. Whenever our costs seem to -- whenever there's 12 changes in -- in our -- within our industry. 13 Q. For -- for your own charge, you had a 99284 14 code? 15 A. Yes, sir. 16 Q. And that's actually not the 5 code that the 17 facility had. Is -- are they supposed to correspond to 18 one another or can one be lower than the other or -- 19 A. One can be lower. 20 Q. Okay. And the emergency room visit Level 4 for 21 yourself is billed as \$2,400. 22 A. That's what it says. 23 Q. Okay. Isn't it true that before the formation 24 of the MVA entities Memorial Heights was billing Level 4 25 ER charges by the physicians at under \$1,000?</p>	<p style="text-align: right;">Page 115</p> <p>1 A. I would have to look at a bill from prior to 2 the MVA entities. 3 Q. Is it possible that earlier in 2018, before 4 August of 2018, that Memorial Heights was charging Level 5 4 services by the physician as -- as low as \$752.40? 6 A. I would have to check the bill to make sure, 7 sir. 8 Q. And you also charged the arm splint application 9 for \$978? 10 A. Correct. 11 Q. But you didn't apply the splint. You 12 supervised the tech that was applying the splint? 13 A. Correct. 14 Q. So there is a charge both by the tech applying 15 the splint and a charge for you watching the tech apply 16 the splint? 17 A. Supervising and assisting, yes. 18 Q. For -- for \$978? 19 A. Yes. And making sure the splint was applied 20 properly, checking neurovascular status afterwards. 21 Q. Well, the -- 22 A. There is additional things that go on too above 23 and beyond just applying a splint. 24 Q. I mean, the -- the wrist splint as a whole cost 25 well over \$2,000 when you consider the over \$1,000</p>
<p style="text-align: right;">Page 116</p> <p>1 charge and the charge for the tech, the charge for you, 2 the charge for the Ace bandage and materials? 3 A. Correct. 4 Q. And when she went to Smart Choice Chiropractic 5 the next day, they -- it -- it doesn't appear that she 6 even had it on. 7 MR. MORIARTY: Objection, form. 8 A. That's what it appears like. 9 Q. (BY MR. WEATHERFORD) Do you think she took it 10 off? 11 A. I can't make an opinion based on speculation. 12 MR. MORIARTY: Objection, form. Yeah. 13 Q. (BY MR. WEATHERFORD) Does Memorial Heights 14 market services to attorneys? 15 A. No. 16 Q. I know you said you do get referrals from 17 attorneys? 18 A. We -- we market our services in general and 19 people use our services for different reasons. 20 Q. And -- and how do you market in general? 21 A. Search and geo-optimization, Google, 22 billboards, word of mouth -- 23 Q. Would you have had -- 24 A. -- provide good service. 25 Q. Would you have had billboards up at -- in 2018?</p>	<p style="text-align: right;">Page 117</p> <p>1 A. Yes. 2 Q. Okay. At what parts of town? 3 A. I would have to check our roster to tell you 4 exactly where they are, but we have numerous. 5 Q. Would you have a -- a roster from 2018, at the 6 time she treated? 7 A. Clear Channel might. 8 Q. The -- the Emergency Healthcare Partners, LP 9 entity, which that's the entity that actually does 10 business as Memorial Heights. Correct? 11 A. That's the legal entity which owns the 12 facility. 13 Q. Okay. It -- it's the only entity that's 14 actually licensed by the State of Texas as a 15 freestanding ER. Is that correct? 16 A. That's correct. 17 Q. Okay. What are these -- these other entities, 18 MVA Physician Administration, LLC, are they a -- a 19 totally separate entity? 20 A. They're the billing entities. 21 Q. They're -- they're strictly billing entities? 22 A. Correct. 23 Q. Do they have different tax identification 24 numbers from the actual Emergency Healthcare Partners, 25 LP entity?</p>

<p style="text-align: right;">Page 118</p> <p>1 A. I believe so, yeah. 2 Q. So a bill going out for an accident patient 3 would be under a different tax identification number 4 than a billing for the -- for an abdominal pain or I 5 slipped on the dog in my front yard type of -- 6 A. The -- the bill comes from the MVA entities and 7 then I assume -- yeah -- there's a different tax ID 8 number that -- it's a different billing company 9 essentially that does the billing for the car accident 10 type patients.</p> <p>11 Q. Okay. Earlier you talked about you had given a 12 deposition in a -- in a case against a partner?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Was that a -- a lawsuit against Dr. Phelan?</p> <p>15 A. Yeah, there was a -- yes, it was.</p> <p>16 Q. And -- and that's a lawsuit that -- that your 17 entity, Emergency Healthcare Partners initiated against 18 Dr. Phelan?</p> <p>19 A. That's correct.</p> <p>20 Q. And Dr. Phelan actually filed a countersuit in 21 that action, didn't he?</p> <p>22 A. Correct. But if this going to go much longer, 23 I would like to break for lunch.</p> <p>24 Q. It's -- it's not going to go much longer.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. I think it's going to be done now in ten 2 minutes. 3 A. In ten minutes? 4 Q. Ten or 15 minutes. 5 A. Okay. 6 Q. That -- that lawsuit against -- that lawsuit 7 was in 2019. Correct? 8 A. Correct. 9 Q. And it's -- it's resolved in some manner. It's 10 no longer a live lawsuit? 11 A. Correct. 12 Q. Okay. Do you recognize the -- the filings in 13 the case. 14 A. Yes. 15 Q. And you've read these before? 16 A. Yes. 17 Q. And you were probably deposed on these issues 18 in that case? 19 A. Correct. 20 Q. Okay. If you look at the very bottom of page 7 21 on this, there is a heading, "Dr. Bhagat secretly forms 22 the MVA entities to run a personal injury accident 23 clinic out of the partnership's facility and using 24 partnership funds and resources." I mean, would you 25 agree with that allegation?</p>
<p style="text-align: right;">Page 120</p> <p>1 A. No. 2 Q. Did the other partners, the junior partners, 3 who had, like, this Dr. Phelan and Dr. Fair that you 4 talked about, did they know you were forming these -- 5 the MVA entities? 6 A. Dr. Fair did, yes. 7 Q. And Dr. Phelan didn't? 8 A. And if we're going to speak about this, then I 9 would need my attorney for -- who's representing me 10 during this time to be present. 11 Q. Okay. But that suit is concluded now. I 12 mean -- 13 A. Yes. 14 Q. And -- and Dr. Phelan can't come back on you in 15 this suit because it's already concluded. Correct? 16 A. This -- this has been dismissed, yes. 17 Q. Okay. Just a question then on this. There's a 18 Footnote No. 3 and the counterclaim states that -- that 19 Dr. Bhagat, yourself, entered into letters of protection 20 with at least 17 different personal injury attorneys. 21 And if you look at Footnote 3, that includes Javier 22 Marcos & Associates. Did you form the MVA entity -- 23 entities after coming to agreements with certain 24 personal injury attorneys to refer patients? 25 A. I did not.</p>	<p style="text-align: right;">Page 121</p> <p>1 Q. Did -- did you form them as part of a separate 2 entity to assist personal injury attorneys in presenting 3 personal injury claims based on automobile accidents? 4 A. No. 5 Q. Or to increase the charges for personal injury 6 patients -- 7 A. No. 8 Q. -- to support those claims? 9 A. No. And above and beyond that, I'm -- I'm 10 going to need to involve my attorney if you want to 11 discuss any of those issues in there. 12 Q. Okay. Okay. Let's just take a quick break. I 13 think I'm -- I'm not going to come back to this. 14 A. Okay. 15 Q. And -- well, let me get this straight. If -- 16 if -- if I ask you any further questions about the -- 17 the lawsuit involving Dr. Phelan -- 18 A. Right. 19 Q. -- are you going to answer those questions? 20 A. No, I won't. 21 MR. WEATHERFORD: Let's just take a short 22 break. We may be done. 23 THE VIDEOGRAPHER: Off the -- excuse me -- 24 off the record. The time is 12:54. 25 (Recess 12:54 p.m. to 1:00 p.m.)</p>